


<b>Application Number</b> 	<b>Application/Control No.</b> 10/698,819	<b>Applicant(s)/Patent under Reexamination</b> CONRAD ET AL.	
<b>Document Code - DISQ</b>		<b>Internal Document – DO NOT MAIL</b>	

<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> <b>APPROVED</b>	<input type="checkbox"/> <b>DISAPPROVED</b>
Date Filed : 2/5/07	This patent is subject to a Terminal Disclaimer	

<b>Approved/Disapproved by:</b>
ANDRE ROBINSON



The application being disclaimed  
is correct.

CMH

JPW

S/N 10/698,819

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	CONRAD ET AL.	Examiner:	Hopkins, C.
Serial No.:	10/698,819	Group Art Unit:	3735
Filed:	October 31, 2003	Docket No.:	13033.12US01
Title:	AIRWAY IMPLANT		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 on January 31, 2007.

*Elizabeth Tauer*  
Elizabeth Tauer

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL  
DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**23552**  
PATENT TRADEMARK OFFICE

Dear Sir:

Petitioner, Restore Medical, Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 2800 Patton Road, St. Paul, Minnesota, 55113 represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/698,819, filed on October 31, 2003 and entitled AIRWAY IMPLANT ("present application"), by virtue of our assignment recorded at Reel 014670, Frame(s) 0692.

Petitioner, Restore Medical, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term as shortened by any terminal disclaimer filed prior to the grant of any patent granted from pending second U.S.

Patent Application Serial No. 10/877,003, filed on June 24, 2004, and entitled AIRWAY

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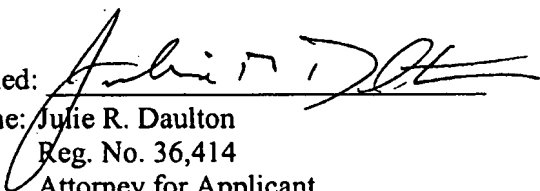
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IMPLANT ("second application") and hereby agrees that any patent so granted on the present application 10/698,819 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on the second application, this agreement to run with any patent granted on the present application 10/698,819 and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the present application that would extend to the full statutory term as shortened by any terminal disclaimer filed prior to the patent grant on the second application, in the event that any such issued patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Date: 1-30-07

Signed:   
Name: Julie R. Daulton  
Reg. No. 36,414  
Attorney for Applicant